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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Equal Employment Opportunity Commission,	)	
	)	
Plaintiff,	)	Complaint
	)	
vs.	)	
	)	
The Cheesecake Factory, Inc., a Delaware corporation,	)	(Jury Demand)
	)	
Defendant.	)	

**NATURE OF THE ACTION**

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct alleged unlawful employment practices on the basis of sex and to provide appropriate relief to Bryce Fitzpatrick, Michael Wilson, Albert Miller, and a class of males who were adversely affected by such practices. As alleged with greater particularity below, Defendant, The Cheesecake Factory, Incorporated, discriminated against Bryce Fitzpatrick, Michael Wilson, Albert Miller, and a class of male employees, by allowing co-workers to sexually harass them, without taking appropriate steps to address the behavior. The harassment created a hostile work environment for Bryce Fitzpatrick, Michael Wilson, Albert Miller, and a class of male employees because of their sex. The Commission also alleges that Defendants constructively discharged Bryce Fitzpatrick.

**JURISDICTION AND VENUE**

1  
2 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331,  
3 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section  
4 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. §  
5 2000e-5 (f)(1) and(3) ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42  
6 U.S.C. § 1981a.

7 2. The employment practices alleged to be unlawful were committed within  
8 the jurisdiction of the United States District Court for the District of Arizona.

**PARTIES**

9  
10 3. Plaintiff, the Equal Employment Opportunity Commission (the  
11 "Commission"), is the agency of the United States of America charged with the  
12 administration, interpretation and enforcement of Title VII, and is expressly authorized to  
13 bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and  
14 (3).

15 4. At all relevant times, Defendant, The Cheesecake Factory, Incorporated,  
16 has continuously been a corporation doing business in the State of Arizona and the City  
17 of Chandler, and has continuously had at least 15 employees.

18 5. At all relevant times, Defendant, The Cheesecake Factory, Incorporated,  
19 has continuously been an employer engaged in an industry affecting commerce within the  
20 meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

**STATEMENT OF CLAIMS**

21  
22 6. More than thirty days prior to the institution of this lawsuit, Bryce  
23 Fitzpatrick, Michael Wilson, and Albert Miller, filed charges with the Commission  
24 alleging violations of Title VII by Defendant. All conditions precedent to the institution  
25 of this lawsuit have been fulfilled.

26 7. Since at least November 2004, Defendant has engaged in unlawful  
27 employment practices at its Chandler, Arizona facility in violation of Section 703(a) of  
28 Title VII, 42 U.S.C. §§ 2000e-2(a) because of sex by allowing co-workers to subject

1 Bryce Fitzpatrick, Michael Wilson, and Albert Miller, and a class of male employees, to  
2 sexual harassment that altered the terms and conditions of their employment and created  
3 a hostile work environment. The sexual harassment that Defendant allowed to occur  
4 included:

5 (a) repeated sexual assaults by groups of male employees, who, on each  
6 occasion, would grab one of the individuals named above or one of the class  
7 members, and take turns grinding their genitals into the victim's genitals in a  
8 sexual manner, simulating sex, while making verbal remarks of a sexual nature;

9 (b) co-workers bumping into victims from behind in a sexual manner on  
10 multiple occasions; and

11 (c) co-workers grabbing the genitals of one or more of the victims on  
12 multiple occasions.

13 8. Defendant knew or should have known that Bryce Fitzpatrick, Michael  
14 Wilson, Albert Miller, and a class of male employees were being subjected to unlawful  
15 sexual harassment by co-workers.

16 9. Defendant failed to act reasonably to prevent or correct the sexual  
17 harassment by the co-workers.

18 10. In approximately October 2006, Defendant engaged in unlawful  
19 employment practices at its Chandler, Arizona facility, in violation of Section 703(a) of  
20 Title VII, 42 U.S.C. § 2000e-2(a) by constructively discharging Bryce Fitzpatrick by  
21 allowing the sexual harassment set forth in paragraph 7 above to continue.

22 11. The effect of the practices complained of in paragraphs 7-10 above has  
23 been to deprive Bryce Fitzpatrick, Michael Wilson, Albert Miller, and a class of male  
24 employees of Defendant of equal employment opportunities and to otherwise adversely  
25 affect their status as employees because of their sex, male.

26 12. The unlawful employment practices complained of in paragraphs 7-10  
27 above were intentional.  
28



1 F. Order Defendant to pay punitive damages to Bryce Fitzpatrick, Michael  
2 Wilson, Albert Miller, and the class of male employees, for its malicious and/or reckless  
3 conduct described in paragraphs 7-10 above, in amounts to be determined at trial.

4 G. Grant such further relief as the Court deems necessary and proper in the  
5 public interest.

6 H. Award the Commission its costs in this action.

7 **JURY TRIAL DEMANDED**

8 The Commission requests a jury trial on all questions of fact raised by its  
9 complaint.

10  
11 RESPECTFULLY SUBMITTED this 30<sup>th</sup> day of June, 2008.

12 RONALD COOPER  
13 General Counsel

14 JAMES L. LEE  
15 Deputy General Counsel

16 GWENDOLYN YOUNG REAMS  
17 Associate General Counsel

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